

**United States Department of Labor
Employees' Compensation Appeals Board**

F.A., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Los Angeles, CA, Employer**

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**Docket No. 15-349
Issued: April 8, 2015**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
ALEC J. KOROMILAS, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On December 2, 2014 appellant filed a timely appeal from a November 26, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained an occupational disease in the performance of duty.

FACTUAL HISTORY

On August 26, 2014 appellant, then a 42-year-old mail handler, filed an occupational disease claim alleging that he developed a left knee anterior cruciate ligament tear. He advised that he became aware of his condition on July 14, 2014 and its relation to his federal employment

¹ 5 U.S.C. § 8101 *et seq.*

on August 15, 2014. Appellant claimed that lifting, loading, unloading, pushing, pulling, and walking for 8 to 10 hours a day since 1998 caused his condition. He did not stop work.

In an April 27, 2012 x-ray report, Dr. Jason Sinner, a Board-certified diagnostic radiologist, advised that appellant complained of knee pain. He noted that bilateral knee x-rays revealed no fracture or subluxation, mild degenerative changes, and mild right medial and left lateral joint space narrowing.

In an October 2, 2013 report, Dr. Sinner advised that appellant complained of knee pain. He noted that a magnetic resonance imaging (MRI) scan of the left knee revealed a complex tear involving the posterior horn and peripheral body of the medial meniscus with an element of maceration. Dr. Sinner diagnosed anterior cruciate ligament tear and mild chondromalacia.

By letter dated September 4, 2014, OWCP notified appellant that the evidence was insufficient to establish his claim. It advised him of the type of medical evidence needed to establish the claim.

In an October 3, 2014 report, Dr. Teresita Maqueda, Board-certified in internal medicine, advised that appellant complained of severe left knee pain. She advised that he developed knee pain in 1998 when he began working at the employing establishment. Dr. Maqueda noted that appellant's duties included: lifting, carrying over 10 pounds, pushing, standing, walking, and squatting several hours per day. Appellant related that the pain was initially intermittent and mild but that it became progressively worse over time. Dr. Maqueda stated that an MRI scan showed a complex tear of the posterior horn and peripheral body of the medial meniscus, with a torn anterior cruciate ligament. On September 14, 2014 appellant presented complaining of worsening left knee pain that caused him to limp. On physical examination the left knee was slightly swollen but without erythema or warmth. Appellant had tenderness over the medial and lateral aspect of the knee joint and pain with extension, flexion, and ambulation. Dr. Maqueda diagnosed complex tear of the medial meniscus with maceration of the left knee and tear of the anterior cruciate ligament of the left knee. She referred appellant to physical therapy and to an orthopedic surgeon.

By decision dated November 26, 2014, OWCP denied appellant's claim because the medical evidence was insufficient to establish that his diagnosed condition was related to the established work factors.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation, that an injury was sustained in the performance of duty as alleged, and that any disabilities and/or specific conditions for which compensation is claimed are causally related to

the employment injury.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

Whether an employee actually sustained an injury in the performance of duty begins with an analysis of whether fact of injury has been established. To establish an occupational disease claim, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁴

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is generally required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁵ The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁶

ANALYSIS

Appellant claimed that he sustained a torn anterior cruciate ligament in the performance of duty. There is no dispute that his duties included: lifting, loading, unloading, pushing, pulling, and walking. However, the medical evidence is insufficient to establish that the medical condition was causally related to the accepted work factors.

In her October 3, 2014 report, Dr. Maqueda advised that appellant complained of severe left knee pain. She diagnosed complex tear of the medial meniscus with maceration of the left knee and tear of the anterior cruciate ligament of the left knee. Dr. Maqueda advised that appellant developed knee pain in 1998 when he began working at the employing establishment. She noted that appellant's duties included: lifting, carrying over 10 pounds, pushing, standing, walking, and squatting several hours per day. Dr. Maqueda stated that he related that the pain was intermittent and progressively became worse over time. Although she noted that appellant's knee pain began during his service with the employing establishment, this is insufficient to establish causal relationship. The Board has found that the mere fact that a condition manifests itself or is worsened during the employment period does not raise an inference of causal

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *R.H.*, 59 ECAB 382 (2008); *Ernest St. Pierre*, 51 ECAB 623 (2000).

⁵ *I.J.*, 59 ECAB 408 (2008); *supra* note 3.

⁶ *James Mack*, 43 ECAB 321 (1991).

relationship.⁷ Dr. Maqueda also lists appellant's work duties. However, she does not explain how these duties caused or aggravated the diagnosed condition. As a result, Dr. Maqueda's report is insufficient to discharge appellant's burden of proof.

In his April 27, 2012 and October 2, 2013 reports, Dr. Sinner noted findings of diagnostic testing. These reports are insufficient to discharge appellant's burden of proof because they do not address how any diagnosed condition was caused or aggravated by employment duties.⁸

On appeal appellant argued that the medical evidence submitted established that his diagnosed condition was causally related to factors of his employment. However, the claim is deficient because he has not submitted medical evidence explaining how the established work factors caused or contributed to the diagnosed condition. As noted, causal relationship is a medical question that must be established by probative medical opinion from a physician.⁹ The physician must accurately describe appellant's work duties and medically explain the pathophysiological process by which these duties would have caused or aggravated his condition.¹⁰ Because appellant has not provided such medical opinion evidence in this case, he has failed to meet his burden of proof.

Appellant may submit new evidence or argument as part of a formal written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained an occupational disease in the performance of duty.

⁷ *Patricia Bolleter*, 40 ECAB 373 (1988).

⁸ *See Jaja K. Asaramo*, 55 ECAB 200 (2004) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship).

⁹ *See supra* note 5.

¹⁰ *Solomon Polen*, 51 ECAB 341 (2000) (rationalized medical evidence must relate specific employment factors identified by the claimant to the claimant's condition, with stated reasons by a physician). *See also S.T.*, Docket No. 11-237 (issued September 9, 2011).

ORDER

IT IS HEREBY ORDERED THAT the November 26, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 8, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board